

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 1:13-cr-063

Also 1:17-cv-581

- vs -

District Judge Susan J. Dlott

Magistrate Judge Michael R. Merz

PETER TSAI,

Defendant.

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**SCHEDULING ORDER**

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This proceeding under 28 U.S.C. § 2255 is before the Court on Defendant's Objections to the Magistrate Judge's Report and Recommendations on the merits (ECF No. 146) and his Motion for Certificate of Appealability (ECF No. 147). Judge Dlott has recommitted the § 2255 Motion for reconsideration in light of the Objections (ECF No. 148).

Under Fed. R. Civ. P. 72(b)(2), the United States has an opportunity to respond to Defendant's Objections; the deadline for doing so is February 8, 2018. Under S. D. Ohio Civ. R. 7.2, the Government's deadline for opposing the Motion for Certificate of Appealability is February 20, 2018. These two deadlines are hereby combined and fixed at February 20, 2018, with the suggestion that the Government combine its responses in one document.

If the Government concedes Defendant's argument about the prejudice prong of the *Strickland* analysis, the Magistrate Judge projects a lengthy evidentiary hearing, preceded by

discovery and one or more *Daubert* hearings. Counsel should be aware of this prediction and perhaps discuss among themselves a schedule for those proceedings.

January 29, 2018.

s/ *Michael R. Merz*  
United States Magistrate Judge